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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA		
Plaintiff,		Case No. 2:20-cr-00001-JCM-BNW
v.		
		DEFENDANT, CLAUDIA ANN
CLAUDIA ANN MERRILL		MERRILL's SECOND AND FINAL
		UNOPPOSED MOTION TO ADJOURN
DEFENDANT,		SEPTEMBER 25, 2020 SENTENCING
		FOR 60 DAYS

NOW COMES the defendant, CLAUDIA ANN MERRILL, by and through her attorneys, SANFORD A. SCHULMAN and BENJAMIN DURHAM and submits this

1 Emergency Unopposed Motion to Adjourn the September 25, 2020 Sentencing hearing and
2 states in support

3 1. The Defendant, CLAUDIA ANN MERRILL was charged in a Criminal Complaint
4 with one count of Mail Fraud in violation of 18 USC Sec. 1341.

5 2. On the same day the Criminal Complaint was filed, the defendant appeared with
6 counsel, waived the requirement of a grand jury indictment and pled guilty to an Information.

7 3. Sentencing is currently scheduled for September 25, 2020. Lead counsel for the
8 defendant, Sanford A. Schulman, resides in Michigan and his office is in Detroit, Michigan.
9 The defendant currently reside in Farmington Hills, Michigan.

10 4. There were no adjournments or delays or motions filed prior to the plea and there
11 has been one adjournment of sentencing. However, the defense continues to have difficulty
12 preparing adequately prepare for sentencing scheduled for September 25, 2020 in light of the
13 current COVID-19 pandemic. The defense has drafted a Sentencing Memorandum but has
14 attempted provide an opinion letter from an accountant who only recently has reopened her
15 office. The Governor of Michigan has extended the State of Emergency and the Court is quite
16 aware of the numerous restrictions in travel.

17 5. A presentence report has been completed and the defendant has been on bond with
18 no violations of her pretrial release.

19 6. The defense is requesting a sixty day continuance to allow 1) time for the defendant
20 and counsel to meet to further review the presentence report and prepare a sentencing
21 memorandum; 2) to allow the defendant additional time to obtain letters from family and
22 friends as well as a report and recommendation from her accountant on the issue of loss and
23 any mitigating circumstances; 3) to make the arrangements to travel safely from Detroit to Las
24 Vegas and finally 4) to meet and prepare the defendant for the sentencing hearing

25 7. The defendant concurs with this request.

26 8. Jesica Oliva, the Assistant US Attorney has concurred with this request.
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BRIEF IN SUPPORT

Before the Court is the defendant's second and anticipated final request for an adjournment. The Government previously requested an adjournment which was unopposed by the defense. This request comes during an unprecedented time and is not intended to unduly delay the process. In fact it is very much the opposite. This motion is filed to ensure that the defendant has a full and fair sentencing hearing. However, due to the COVID-19 pandemic it has become nearly impossible for the defendant to have effective communication with her counsel and for her attorneys to prepare a sentencing memorandum.

The defendant pled guilty at her first appearance without filing motions or even requiring the Government to obtain an indictment. The defendant has no history of delaying the process but instead has taken full responsibility for her conduct. However, after the presentence investigation report was completed on March 30, 2020, the country was and remains for the most part in a pandemic which has drastically limited travel and communication.

LR IA 6-1. Allows for REQUESTS FOR CONTINUANCE, EXTENSION OF TIME, OR ORDER SHORTENING TIME upon a motion or stipulation to extend time and must state the reasons for the extension requested and must inform the court of all previous extensions of the subject deadline the court granted. District Courts have broad discretion to grant a request for a continuance including a continuance of sentencing. *United States v. Kincade*, No. 2:15-cr-00071-JAD-GWF, 2016 U.S. Dist. LEXIS 180906 (D. Nev. Dec. 28, 2016)

A sixty-day extension of the September 25, 2020 sentencing date would allow the defendant and her attorney to meet, to obtain and review all documents and letters, submit a sentencing memorandum and arrange for travel to appear. This request for adjournment was not anticipated but given the current state of emergency and the restrictions it is requested to ensure that the defendant is effectively represented and this Court has all the pertinent information to consider the 3553(a) factors.

1 The Government does not object to the defense request. The defense sought and has
2 obtained the written consent of Jessica Oliva, the assistant US Attorney who has indicated she
3 does not object and agrees to the defense request for a 60-day adjournment.

4 I CLAUDIA ANN MERRILL HAVE READ THIS MOTION AND SECOND
5 REQUEST TO ADJOURN THE SENTENCING SCHEDULED FOR SEPTEMBER 25, 2020
6 AND HEREBY CONSENT TO THE ADJOURNMENT. I HAVE NOT BEEN FORCED OR
7 THREATENED TO CONSENT AND BELIEVE THE ISSUES OF COVID-19 HAVE
8 CAUSED ADDITIONAL DELAYS AND THAT THE ADJOURNMENT IS IN MY BEST
9 INTEREST AND THE INTEREST OF JUSTICE.

10 /s/ Claudia Ann Merrill
CLAUDIA ANN MERRILL

11 Date: September 8, 2020

12 WHEREFORE, the defendant, CLAUDIA ANN MERRILL, by and through her
13 attorneys, SANFORD A. SCHULMAN and BENJAMIN DURHAM respectfully requests this
14 Honorable Court grant the Defendant, CLAUDIA ANN MERRILL's Emergency Unopposed
15 Motion to Adjourn the September 25, 2020 Sentencing for Sixty (60) Days for the reason so
16 stated herein.

17 Respectfully submitted,

18 /s/ Sanford A Schulman
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20 Attorney Pro Hac Vice on behalf of the defendant
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/s/ Benjamin C. Durham
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NICHOLAS TRUTANICH
United States Attorney
/s/ Jessica Oliva

CERTIFICATE OF SERVICE

A copy of the foregoing was served upon counsel of record via
Electronic Filing on September 8, 2020

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLAUDIA ANN MERRILL

Case No. 2:20-cr-00001-JCM-BNW

FINDINGS OF FACTS

HAVING COME before the Court upon the defendant, CLAUDIA ANN MERRILL,
Emergency Motion to Adjourn the July 17, 2020 Sentencing hearing and good cause appearing
therefore, the Court finds that

1. The sentencing hearing in this case is currently scheduled for September 25, 2020
2. The parties agree that the sentencing hearing in this matter should be continued to

1 avoid in-person court appearances at this time and to allow the defense and counsel who reside
2 outside of Nevada sufficient time to prepare for sentencing.

3 3. The defendant is not in custody and has had no pretrial violations.

4 4. This is second adjournment of sentencing but there have been no prior adjournments
5 prior to the plea hearing and this is the second defendant's first request for adjournment of
6 sentencing.

7 FOR ALL OF THE ABOVE-STATED REASONS, good cause warrants a continuance
8 of the September 25, 2020 sentencing hearing date

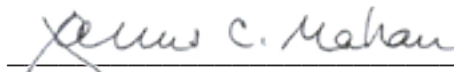
9 CONCLUSIONS OF LAW

10 The ends of justice served by granting said continuance outweigh the best interest of
11 the public, since the failure to grant said continuance would be likely to result in a
12 miscarriage of justice, would deny the parties herein sufficient time and the opportunity
13 within which to be able to effectively and thoroughly prepare for sentencing, taking into
14 account the exercise of due diligence.

15 ORDER

16 IT IS HEREBY ORDERED that the sentencing hearing in United States of America
17 vs. Claudia Ann Merrill, Case No. 2:20-CR_00001-JCM-BNW, previously scheduled for
18 September 25, 2020 is VACATED and continued until December 4, 2020 at
19 10:30 a.m.

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21 Date: September 11, 2020.

22 
23 Hon. JAMES C. MAHAN
24 US DISTRICT COURT JUDGE
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